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10 **UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**  
**SOUTHERN DIVISION**

11 Jeff Ibach, individually and on behalf of  
12 all others similarly situated,

13 Plaintiff,

14 - against -

**Class Action Complaint**

15 Adidas America, Inc.,

Jury Trial Demanded

16 Defendant

17 Plaintiff Jeff Ibach (“Plaintiff”) alleges upon information and belief, except for  
allegations about Plaintiff, which are based on personal knowledge:

18 1. Adidas America, Inc. (“Defendant”) manufactures National Hockey  
19 League (“NHL”) jerseys represented as “authentic” (“Product”).

20 **I. BOOMING BUSINESS OF SPORTS MERCHANDISE**

21 2. Sales of sports merchandise in the United States is close to \$20 billion  
per year.

22 3. This generates millions of dollars for teams through royalties and is an  
increasingly important revenue source.

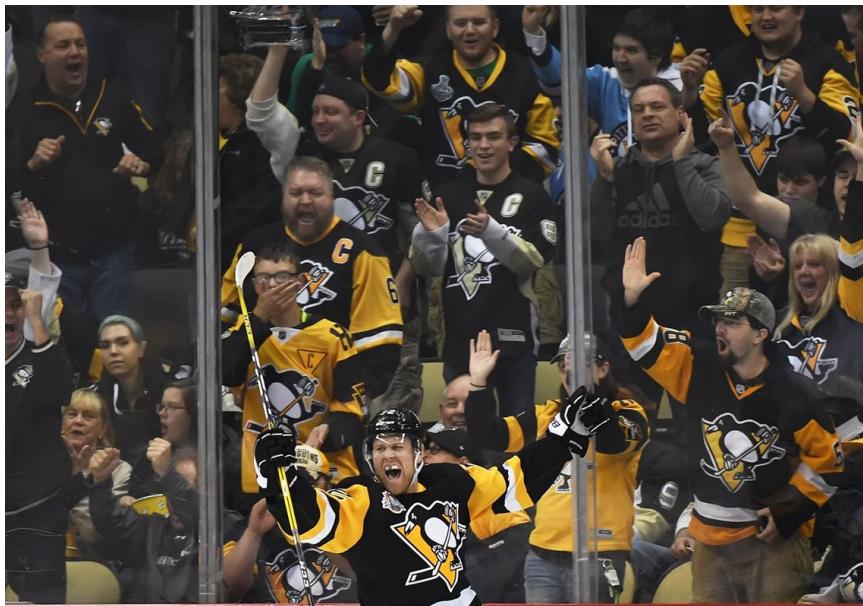
23 4. According to the author of *The Fastest Game in the World: Hockey and*  
*the Globalization of Sports*, “[t]he current popularity of the[se] colorful, oversized  
shirts is the result of changes in marketing and fan culture, in hockey as well as other

1 sports.”<sup>1</sup>

2       5. Until relatively recently, “fans went to the arena in everyday street  
3 clothes,” and “[t]he trend of putting on what the players wore first emerged in  
4 European soccer in the 1980s.”

5       6. Berglund noted that “NHL crowds from the early ‘90s show that most  
6 fans didn’t give second thought to what they wore.”

7       7. However, fans at hockey games, like at the Penguins game shown below,  
8 are passionate about wearing their team’s jerseys.



9       8. One sociologist explained commitment to a particular sports team  
10 “crosses many areas of society such as wealth, position, race, and religion.”<sup>2</sup>

11       9. The most significant and expensive of such merchandise is the team  
12 jersey, often bearing the name of the wearer’s favorite player.

13       10. The jersey signifies the fan’s loyalty to his or his team and provides an  
14 opportunity to enhance a relationship with the team.

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15       1 <sup>1</sup> Bruce Berglund, *How Hockey Jerseys Became Standard Wear for Fans*, University  
16 of California Press Blog, Dec. 18, 2021.

17       2 Norm O’Reilly, et al., “*Merchandise Sales Rank in Professional Sport: Purchase  
18 Drivers and Implications for National Hockey League Clubs*,” *Sport, Business and  
Management: An International Journal* (2015).

1       11. One apparel executive recognized this fact, stating “We’re selling  
 2 emotion, observed not just a product.”<sup>3</sup>

3       12. This is supported by relatively low sales for specialty jerseys designed  
 4 to mark an event or occasion, as opposed to standard jerseys players wear on-ice each  
 5 night.<sup>4</sup>

6       13. National retailer Dick’s Sporting Goods identified the three types of  
 7 hockey jerseys as Authentic, Official, and Replica.<sup>5</sup>

8       14. According to Dick’s, “[n]ot all jerseys are cut from the same cloth,”  
 9 because “[s]ome might be designed for in-game action, while others are best suited  
 10 for your gameday party.”

11       15. By knowing the “differences between authentic and replica jerseys,” fans  
 12 can “match [their] gear to [their] needs.” *Id.*

13       16. Hockey jerseys identified as “authentic” “are the on-ice apparel worn by  
 14 your favorite professional team.”

15       17. This is consistent with historical usage and understanding, because for  
 16 decades, “authentic” in the context of NHL jerseys referred to jerseys worn on the ice  
 17 by NHL players.

18       18. Adidas knows “a replica uniform will not be ‘authentic’ and, therefore,  
 19 not desirable to consumers unless it contains all the elements of the uniform worn in  
 20 competition.”

21 **II. JERSEYS REPRESENTED AS AUTHENTIC, UNDERSTOOD BY FANS  
 22 AS WORN “ON ICE”**

23       19. Consumers purchasing NHL jerseys marketed as “authentic” by the  
 24 company which makes the jerseys worn by NHL teams will expect they are

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25       <sup>3</sup> Tim Layden, *We Are What We Wear: How Sports Jerseys Became Ubiquitous in the*  
 26 *U.S.*, Sports Illustrated, Feb. 1, 2016.

27       <sup>4</sup> Keener Jerseys, Jerseys Unite Teams, Fans and Communities.

28       <sup>5</sup> *Authentic vs. Replica Jerseys: What’s the Difference?*, Pro Tips, Dick’s Sporting  
 Goods, Sept. 19, 2019

<sup>1</sup> purchasing jerseys identical to those worn on the ice by NHL players.<sup>6</sup>

2        20. For example, on its website and in digital, print, radio and/or television  
3 marketing, Defendant promotes Winnipeg Jets jerseys as “The Official Home Game  
4 Jersey of the Winnipeg Jets,” telling hockey fans it is an “authentic home game  
5 jersey,” “Imported” and “Officially licensed by the NHL.”

Captured at: 03/18/2023, 07:15 PM  
URL: <https://www.adidas.com/us/jets-home-authentic-jersey/GT5610.htm>

**THE OFFICIAL HOME  
GAME JERSEY OF THE  
WINNIPEG JETS.**

Welcome the Winnipeg Jets back from the road in this adidas authentic home game jersey. AEROREADY keeps you cool and dry as the Jets speed in from the blue line to send a slapper soaring past the opposition's goalie. A mesh underarm insert adds extra breathability for tense overtime moments.

This product is made with Primegreen, a series of high-performance recycled materials.



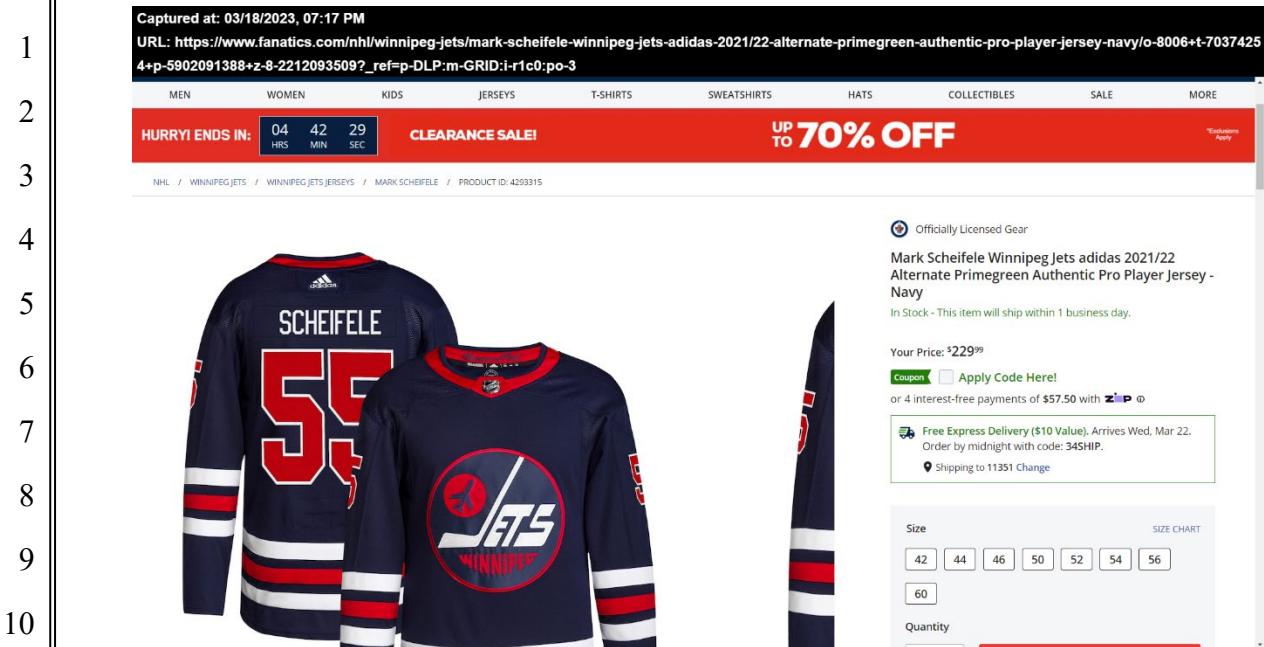
[Details](#)

- Loose fit
- Crewneck
- 100% recycled polyester piqué
- Moisture absorbing
- Mesh underarm insert
- Felt strap with snap closure
- Winnipeg Jets crest
- Officially licensed by the NHL
- Primegreen
- Imported
- Product color: Navy 09 Ccm-Sld
- Product code: GT5610

19       21. Defendant authorizes third parties, such as Fanatics.com, official team  
20 stores, and the NHL to sell its jerseys and provides them with specific language to use  
21 in its marketing.

22        22. At its instructions and directions, third-party stores and websites such as  
23 fanatics.com identify these jerseys as “authentic” by labeling them with names such  
24 as “Authentic Pro Player Jersey.”

<sup>27</sup> <sup>28</sup> <sup>6</sup> AJ Strong, *Stop Calling Adidas NHL Jerseys Authentic*, Teal Town USA, June 29, 2021.



11        23. Defendant capitalizes on consumers believing and expecting the jerseys  
12 are authentic, shown through one website description that “this jersey is the same as  
13 the one Oilers players wear when the puck drops.”<sup>7</sup>

## OILERS AWAY AUTHENTIC PRO JERSEY

THE OFFICIAL AWAY GAME JERSEY OF THE EDMONTON OILERS.

Celebrate Edmonton hockey as they turn up the intensity away from home. Featuring an authentic tie-down fight strap with a hook-and-loop and snap closure, this jersey is the same as the one Oilers players wear when the puck drops on the road. The relaxed fit provides extra room.

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27        7 The representations for the team identified here are substantially similar or identical to those made  
28 for all NHL teams.

1       24. Defendant describes its “Authentic Pro Player jersey” for the Detroit Red  
2 Wings as “Featuring sewn-on team graphics, a tie-down fight strap and moisture-  
3 absorbing AEROREADY fabric, this jersey features the same details that Dylan  
4 Larkin wears on game day.”

## Description

There's nothing more exciting than watching Dylan Larkin hit the ice and lead the Detroit Red Wings to a win. Cheer on this top NHL player with this Authentic Pro Player jersey from adidas. Featuring sewn-on team graphics, a tie-down fight strap and moisture-absorbing AEROREADY fabric, this jersey features the same details that Dylan Larkin wears on game day. Take any fan look to the next level with this must-have Detroit Red Wings jersey.

11        25. That these jerseys are “the same as [] players wear” is confirmed to  
12 purchasers due to features which would only be relevant in on-ice jerseys, by  
13 highlighting its functionality.

14        26. These include its promotion of “AEROREADY [which] keeps you cool  
15 and dry,” “[A] mesh underarm insert,” “Primgreen, a series of high-performance  
16 recycled materials,” “Loose fit,” “Moisture absorbing” and having an “Authentic tie-  
17 down fight strap with a hook-and-loop snap closure.”

Captured at: 03/18/2023, 07:12 PM  
URL: <https://hockeyauthentic.com/products/any-name-and-number-winnipeg-jets-reverse-retro-authentic-adidas-nhl-jersey-customized-primegreen-model>

**THIS JERSEY WILL FEATURE PROPER  
HAND STITCHED SINGLE LAYER  
TWILL CUSTOMIZATION LIKE THE  
PLAYERS WEAR.**

- Officially licensed by the NHL
- Official NHLPA name and number pro stitched just like the players wear
- 100% polyester
- Made with Primegreen - a series of high-performance recycled materials
- Authentic tie-down fight strap with hook-and-loop and snap closure

1       27. Most significantly, the jerseys are marketed as having a “tie-down fight  
2 strap,” the attachment on hockey jerseys which keeps them from being pulled over  
3 their heads during the fights which inevitably break out during hockey games.

4        28. There is no reason to include a “fight strap” on a jersey that is not meant  
5 to be worn on-ice, because this is solely a utilitarian feature relevant to being on skates  
6 in a hockey fight.

7        29. By emphasizing that the Product is made with a fight strap, consumers  
8 will expect it is identical to on-ice jersey.

9       30. However, despite the representations as “authentic,” the jerseys are not  
10 those worn on-ice by NHL players.

11       31. First, the fight straps in Defendant's authentic jerseys are lower quality  
12 than in the on-ice jerseys worn by the players.

32. In the on-ice jersey (left), the fight strap contains a double layered  
reinforced base, while the Authentic (right) is affixed through a single stitched layer.



24       33. Second, in the on-ice jersey (left), the dimples or small holes are  
25 significantly larger, because they were created through the machines which  
26 mechanically press the jersey, while those in the Authentic (left) appear added only  
27 for aesthetics.



10       34. This difference is relevant because these small holes allow air to flow  
11 through the jersey, an important feature relevant to its on-ice performance.

12       35. The smaller dimples in the Adidas authentic jerseys render them less  
13 efficient at dealing with moisture and airflow than the on-ice jerseys.

14       36. Third, the fabric in the authentic jerseys is half the thickness of the fabric  
15 used in the on-ice jerseys worn by NHL players.

16       37. Fourth, the stitching used in the authentic jerseys is weaker and less  
17 durable than in the on-ice jerseys.

18       38. Fifth, the authentic jerseys are “Made in Indonesia” while the on-ice  
19 jerseys are “Made in Canada.”

20       39. By describing the authentic jerseys as “Imported” on its website and  
21 other marketing materials, hockey fans will expect this refers to Canada, the  
22 birthplace of ice hockey.

23       40. As the world leader – and inventor of hockey – Canada has institutional  
24 knowledge of all aspects of this winter sport, passed down through generations of  
25 craftsmen.

26       41. In contrast, the tropical temperature of Indonesia has never been suitable  
27 for playing ice hockey.

28       42. The authentic jerseys (middle) are closer to counterfeit Adidas NHL

1 jerseys (bottom) than to those worn on the ice by NHL players (top).



12        43. The jerseys have more in common with what is commonly described as  
13 "replica" or even counterfeit authentic jerseys than those worn by players on the ice  
14 during games.

15        44. The representation of the Products as “authentic” is misleading, because  
16 they are more accurately described as “replicas.”

17       45. Defendant has been aware that eagle-eyed consumers have discovered  
18 the differences between its authentic jerseys and those worn by players on the ice.

19       46. First, a website devoted to covering the San Jose Sharks,  
20 TealTownUsa.com, published an article by AJ Strong, entitled, “*Stop Calling Adidas*  
21 *NHL Jerseys Authentic*,” in June 2021.

22        47. Strong provided detailed facts about why “it’s disingenuous and  
23 misleading for Adidas to call [the jerseys] ‘authentic’ or ‘authentic pro’” and  
24 recommended “Adidas [] call[s] those jerseys what they are... replicas.”

25        48. “Products marketed legally and manufactured by the firms owning the  
26 production rights of the brand using original ingredients, genuine parts, and raw  
27 materials have been referred to as authentic market offerings.”

1       49. “Inauthentic products, on the other hand, are fine copies of the authentic  
 2 ones They may range from compatibles (e.g., IBM compatible battery), imitations  
 3 (e.g., imitation crab meat), and replicas (e.g., jewelry) to illegal counterfeits.”

4       50. “While authentic refers to something that is not a copy, hence is of  
 5 undisputed origin, replica refers to an exact copy or replication of original items, such  
 6 as paintings as well as other products, and resemble the original in terms of  
 7 appearance and shape.”

8       51. “When it comes to purchasing items be it paintings, apparel and even  
 9 accessories, it is important to differentiate between the authentic product and the  
 10 replica as the pricing and quality are different.”

11      52. Strong also notified Adidas that the prices of their “authentic” jerseys  
 12 were \$50 greater than what comparable replica NHL jerseys are sold for.

13      53. Second, another fan of the San Jose Sharks, the well-known memorabilia  
 14 and video game blogger known as “Rezrection,” expounded on Strong’s points about  
 15 these jerseys.

16      54. Rezrection posted a video to his YouTube channel entitled, “[Do Not Buy](#)  
 17 [Adidas NHL Authentic Hockey Jerseys Before Watching This Video! What You Need](#)  
 18 [To Know!](#)”

19      55. Over nine minutes, Rezrection isolated numerous ways in which the  
 20 authentic Adidas NHL jerseys were deficient compared to the on-ice jerseys.

21      56. Rezrection cautioned his viewers to be careful about paying almost as  
 22 much for the authentic jerseys as the on-ice jerseys would cost, given what he  
 23 described as stark differences in quality.

24      57. Hockey fans at the popular website reddit.com weighed in on the  
 25 controversy.

26      58. One commenter posited that “[t]he reason they market the current

27

28

1 Indodidas as ‘authentic’ is because … Fanatics has the contract to sell replicas.”<sup>8</sup>

2       59. This is why Adidas “slap[s] a fight strap on some incredibly cheap  
3 replicas and brand them as ‘authentic.’”

4       60. However, “If Adidas were to bring the MiC [Made in Canada worn by  
5 players] to retail and market it (or even quietly hang one in the team store next to the  
6 Indos), the illusion that the current retail jerseys are authentic would be broken in the  
7 eyes of the average fan.”

8       61. The result would be that “Adidas would lose out on sales on the far more  
9 lucrative replica ‘authentic’ market that they currently have cornered.”

10      62. Another user remarked that:

11           It’s not just calling them authentic. It’s saying  
12           stuff like “the official home game jersey” or  
13           the fact that in the beginning they were  
14           marketed as “on ice” jerseys, which they  
15           clearly are not.

16           To those who don’t follow this stuff, they  
17           would think they are getting what the players  
18           wear and they most definitely are not.

19      **Captured at: 03/18/2023, 07:53 PM**

20      **URL: [https://www.reddit.com/r/hockeyjerseys/comments/oalx5b/stop\\_calling\\_adidas\\_nhl\\_jerseys\\_authentic\\_teal/](https://www.reddit.com/r/hockeyjerseys/comments/oalx5b/stop_calling_adidas_nhl_jerseys_authentic_teal/)**

21      [deleted] · 2 yr. ago

22           It’s not just calling them authentic. It’s saying stuff like “the official home game  
23           jersey” or the fact that in the beginning they were marketed as “on ice” jerseys,  
24           which they clearly are not.

25           To those who don’t follow this stuff, they would think they are getting what the  
26           players wear and they most definitely are not.

27      ↑ 4 ↓ Share ...

28      63. Adidas, like most large companies, regularly monitors social media for

<sup>8</sup> [Stop Calling Adidas NHL Jerseys Authentic - Teal Town USA](#), Reddit.com; Indodidas used by poster to refer to Indonesian-made “authentic” jerseys instead of Canadian-made actual authentic jerseys worn by NHL players.

1 mentions of its brand, and was informed, directly or through its agents, of the issues  
2 identified by Strong and Rezrection.

3       64. Whether the term used is “knock-off, replica, counterfeit, or even the  
4 most obvious of terms: fake; it is all referring to the same rising phenomenon of  
5 imitated products.”

6       65. Studies have shown that consumers form their perception of product  
7 authenticity via intrinsic cues (product exposures/experiences, actual product quality)  
8 and extrinsic cues (explicit messages, inconspicuous cues) provided by  
9 manufacturers.

10        66. These indicated that based on consumers' authenticity perception, they  
11 are willing to pay significantly more money for the real thing.

12        67. Moreover, “even though consumers highly valued authentic products,  
13 they were mostly unable to distinguish them” from replicas, sometimes referred to as  
14 “counterfeit” or “knock-offs.”<sup>9</sup>

15        68. “Unless a consumer is well informed about the particular characteristics  
16 of the authentic product, it is difficult to discern whether a product is real or fake.”

17        69. “There is also a large market of disguised replica products that are not  
18 identified as being either replica or counterfeit.”<sup>10</sup>

19       70. This can lead to significant consumer confusion since consumers believe  
20 they are purchasing authentic products like the jerseys worn by NHL players on the  
21 ice.

## PARTIES

23 71. Plaintiff Jeff Ibach is a citizen of Fullerton, Orange County, California.

24 ||| 72. Defendant Adidas America, Inc. is an Oregon corporation with a

<sup>25</sup> <sup>26</sup> <sup>27</sup> <sup>9</sup> Nguyen, Hang, and Kunter Gunasti. "Authenticity is in the eye of the beholder: From changes in attitudes and preferences to placebo effects." ACR North American Advances (2011).

<sup>27</sup> <sup>28</sup> <sup>10</sup> Slocum, Jenny T., and Jess M. Collen. "The evolving threat and enforcement of replica goods." *W. New Eng. L. Rev.* 33 (2011): 789.

1 principal place of business in Portland, Multnomah County, Oregon.

2       73. Adidas manufactures jerseys for the National Hockey League.

3       74. Consumers know they can trust a sportswear product with Adidas' well-known three stripes to deliver what it promises.

4       75. Plaintiff purchased an Adidas authentic NHL Seattle Kraken jersey,  
5 among others, at in-person retailers and/or online, between September 2019 and the  
6 present.

7       76. Plaintiff believed the Product was authentic, understood as being the  
8 same jersey that the Kraken players wear during hockey games, from the fight strap  
9 to the dimples to the stitching and the fit.

10      77. Plaintiff relied on the Product's features such as its fight strap, to believe  
11 it was the one worn on ice by the players.

12      78. Plaintiff read, reviewed, and relied on Defendant's representations that  
13 the jerseys were authentic and/or was exposed to its language on the hang tags and  
14 internet sites that he was buying the same jersey worn by players "when the puck  
15 drops" on the ice.

16      79. Plaintiff was aware the jerseys had features such as an "authentic tie-  
17 down fight strap with a hook-and-loop and snap closure," which serve no purpose in  
18 a jersey not designed and sold for use on the ice by NHL players.

19      80. Plaintiff bought the Product because he expected it was authentic, and  
20 the same jersey that NHL players wear during hockey games, from the fight strap to  
21 the dimples to the stitching and the fit, because that is what the representations said  
22 and implied.

23      81. As a result of the false and misleading representations, the Adidas  
24 "authentic" jerseys are sold at premium prices, approximately not less than \$200,  
25 excluding tax and sales.

26      82. Plaintiff relied on the words, descriptions, layout, tags, images, and  
27 website descriptions on Defendant's site and those of its third-party partners, about

1 its authentic jerseys.

2       83. Plaintiff was disappointed because he believed the Product was  
3 authentic, understood as being identical to that worn on the ice by NHL players during  
4 games, even though it was not the same jersey worn by members of the Seattle Kraken  
5 and other NHL players.

6       84. Plaintiff bought the Product at or exceeding the above-referenced price.

7       85. Plaintiff would not have purchased the Product if he knew the jerseys  
8 were not identical to those worn on the ice by NHL players, or would have paid less  
9 for them.

10       86. Plaintiff chose between Defendant's Product and products represented  
11 similarly, but which did not misrepresent their attributes, features, and/or components,  
12 as those worn on the ice by NHL players.

13       87. Plaintiff paid more for the Product than he would have had he known the  
14 representations and omissions were false and misleading, or would not have  
15 purchased it.

16       88. The value of the Product that Plaintiff purchased was materially less than  
17 its value as represented by Defendant.

18       89. Plaintiff intends to, seeks to, and would purchase Adidas authentic  
19 jerseys again when he can do so with assurances those jerseys were identical to those  
20 worn on the ice by NHL players.

21       90. Plaintiff is unable to rely on the labeling of not only Adidas authentic  
22 NHL jerseys, but other sports apparel represented as authentic, because he will be  
23 unsure of whether those representations are truthful.

24       91. If Defendant was compelled to truthfully describe its hockey jerseys as  
25 "replicas" and not "authentic," Plaintiff would have more confidence in the promises  
26 of other companies selling sportswear described as authentic.

27

28

## **JURISDICTION**

92. Plaintiff is a citizen of California.

93. Defendant is a citizen of Oregon.

4       94. The Court has jurisdiction over Defendant because it transacts business  
5 within California and sells the Product to consumers within California from its  
6 website, third-party retail sporting goods stores and websites, team shops at NHL  
7 arenas, and licensed apparel retailers, and/or online in this State.

8        95. Defendant transacts business in California, through the sale of the  
9 Product to consumers within California from its website, third-party retail sporting  
10 goods stores and websites, team shops at NHL arenas, and licensed apparel retailers,  
11 and/or online in this State.

12        96. Defendant has committed tortious acts within this State through the  
13 distribution and sale of the Product, which is misleading to consumers in this State.

14        97. Defendant has committed tortious acts outside this State by labeling,  
15 representing and selling the Product in a manner which causes injury to consumers  
16 within this State by misleading them as to its contents, amount and/or quality, by  
17 regularly doing or soliciting business, or engaging in other persistent courses of  
18 conduct to sell the Product to consumers in this State, and/or derives substantial  
19 revenue from the sale of the Product in this State.

20        98. Defendant has committed tortious acts outside this State by labeling the  
21 Product in a manner which causes injury to consumers within this State by misleading  
22 them as to its contents, amount and/or quality, through causing the Product to be  
23 distributed throughout this State, such that it expects or should reasonably expect such  
24 acts to have consequences in this State and derives substantial revenue from interstate  
25 or international commerce.

26        99. This Court has jurisdiction under the Class Action Fairness Act of 2005  
27 (“CAFA”). 28 U.S.C. § 1332(d)(2).

100. The aggregate amount in controversy exceeds \$5 million, including any

statutory and punitive damages, exclusive of interest and costs.

2       101. The class of persons Plaintiff seeks to represent includes persons who  
3 are citizens of a different state from which Defendant is a citizen.

4       102. The members of the class Plaintiff seeks to represent are more than 100,  
5 because the Adidas authentic jerseys are sold to consumers from its website, third-  
6 party retail sporting goods stores and websites, team shops at NHL arenas, and  
7 licensed apparel retailers in the State Plaintiff seeks to represent for the past several  
8 years.

## VENUE

103. Venue is in this District because Plaintiff is a resident of Orange County.

11       104. Venue is in this District because a substantial part of the events or  
12 omissions giving rise to these claims occurred in Orange County, which is where  
13 Plaintiff's causes of action accrued.

14        105. Plaintiff purchased and/or used the Product in reliance on the labeling  
15 identified here in Orange County.

16       106. Plaintiff became aware the labeling was false and misleading in Orange  
17 County.

## **DIVISIONAL ASSIGNMENT**

19       107. Pursuant to General Order No. 23-05, In the Matter of Assignment of  
20 Cases and Duties to District Judges, and Rule I.B.1.a.(1)(c) (“Non-Removed Cases  
21 Not Involving the United States”), this Action should be assigned to the Southern  
22 Division.

23       108. This assignment is because 50% or more of the plaintiffs who reside in  
24 this District reside in the Southern Division, in Orange County.

## **CLASS ALLEGATIONS**

26       109. Plaintiff seeks certification under Fed. R. Civ. P. 23 of the following  
27 Class:

**California Class:** All persons in California who

1 purchased the Product in California during the statutes  
2 of limitations for each cause of action alleged.

3 110. Excluded from the Class are (a) Defendant, Defendant's board members,  
4 executive-level officers, and attorneys, and immediate family members of any of the  
5 foregoing persons; (b) governmental entities; (c) the Court, the Court's immediate  
6 family, and Court staff and (d) any person that timely and properly excludes himself  
7 or herself from the Class.

8 111. Common questions of issues, law, and fact predominate and include  
9 whether Defendant's representations were and are misleading and if Plaintiff and class  
members are entitled to damages.

10 112. Plaintiff's claims and basis for relief are typical to other members  
11 because all were subjected to the same unfair, misleading, and deceptive  
12 representations, omissions, and actions.

13 113. Plaintiff is an adequate representative because his interests do not  
14 conflict with other members.

15 114. No individual inquiry is necessary since the focus is only on Defendant's  
16 practices and the class is definable and ascertainable.

17 115. The class of persons is sufficiently numerous because Defendant has sold  
18 the Product with the identified representations for several years throughout this State,  
19 and it was bought by hundreds, if not thousands, of consumers.

20 116. Individual actions would risk inconsistent results, be repetitive and are  
21 impractical to justify, as the claims are modest relative to the scope of the harm.

22 117. Plaintiff's counsel is competent and experienced in complex class action  
23 litigation and intends to protect class members' interests adequately and fairly.

24 118. Plaintiff seeks class-wide injunctive relief because the practices  
25 continue.

## **CLAIMS FOR RELIEF**

## **FIRST CLAIM**

## **Violation of California's Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, et seq.**

119. Plaintiff incorporates all preceding paragraphs.

5       120. The UCL prohibits any unlawful, unfair or fraudulent business act or  
6 practice and unfair, deceptive, untrue or misleading advertising.

7       121. Defendant's conduct, representations, and omissions are "unlawful"  
8 because it violates California's False Advertising Law, BPC § 17500, *et seq.* ("FAL"),  
9 and Consumer Legal Remedies Act, Cal. Civ. Code § 1750, *et seq.* ("CLRA").

10        122. Each of the challenged statements and omissions made and actions taken  
11 by Defendant as described violates the FAL, and therefore violates the “unlawful”  
12 prong of the UCL.

13        123. Defendant's conduct was and continues to be unfair and fraudulent  
14 because it made materially false representations and omissions that caused consumers  
15 to believe the Product was authentic, understood as being the same jersey that NHL  
16 players wear during hockey games, from the fight strap to the dimples to the stitching  
17 and the fit.

18        124. Defendant is aware of the representations and omissions it has made  
19 about the Product with respect to it being authentic.

125. Had Plaintiff been aware of Defendant's practices, he would not have  
purchased the Product or paid as much, suffering damages.

22        126. In accordance with BPC § 17203, Plaintiff seeks an order enjoining  
23 Defendant from continuing to conduct business through unlawful, unfair, and/or  
24 fraudulent acts and practices and to commence corrective advertising.

## SECOND CLAIM

**Violation of California's False Advertising Law,  
Cal. Bus. & Prof. Code § 17500, et seq.**

<sup>27</sup> 127. The FAL prohibits “mak[ing] any false or misleading advertising claim.”

28 || 128. Defendant makes “false [and] misleading advertising claim[s]” by

1 deceiving consumers about how the Product is authentic, understood as being the  
2 same jersey that NHL players wear during hockey games, from the fight strap to the  
3 dimples to the stitching and the fit.

4       129. In reliance on this false and misleading advertising, Plaintiff purchased  
5 and/or used the Product without knowledge it is not actually authentic, understood as  
6 being the same jersey that NHL players wear during hockey games, from the fight  
7 strap to the dimples to the stitching and the fit.

8       130. Defendant knew or should have known that the “authentic”  
9 representations and omissions were likely to deceive consumers.

10        131. Plaintiff and Class Members seek injunctive and equitable relief,  
11 restitution, and an order for the disgorgement of the funds by which Defendant was  
12 unjustly enriched.

**THIRD CLAIM**  
**Violation of California's Consumers Legal Remedies Act,  
Cal. Civ. Code § 1750, *et seq.***

132. The CLRA adopts a statutory scheme prohibiting deceptive practices in  
connection with the conduct of a business providing goods, property, or services  
primarily for personal, family, or household purposes.

18        133. Defendant's policies, acts, and practices were designed to, and did, result  
19 in the purchase and/or use of the Product primarily for personal, family, or household  
20 purposes, and violated and continue to violate sections of the CLRA, including:

- (a) Civil Code § 1770(a)(5), because Defendant represented that the Product had characteristics, attributes, features, capabilities, uses, benefits, and/or qualities it did not have;
- (b) Civil Code § 1770(a)(9), because Defendant advertised the Product with an intent not to sell it as advertised; and
- (c) Civil Code § 1770(a)(16), because Defendant represented that the Product had been supplied in accordance with its previous representations, when it was not.

1       134. Pursuant to the provisions of Cal. Civ. Code § 1782(a), Plaintiff has or  
2 will send a CLRA Notice to Defendant concurrently with the filing of this action or  
3 shortly thereafter, which details and includes these violations of the CLRA, demand  
4 correction of these violations, and provide the opportunity to correct these business  
5 practices.

6        135. If Defendant does not correct these business practices, Plaintiff will  
7 amend or seek leave to amend the Complaint to add claims for monetary relief,  
8 including restitution and actual damages under the CLRA, and injunctive relief to  
9 enjoin the unlawful methods, acts and practices alleged, pursuant to Cal. Civ. Code §  
10 1780.

## **FOURTH CLAIM**

### **Breach of Express Warranty**

13           136. The Product was manufactured, identified, marketed and sold by  
14 Defendant and expressly warranted to Plaintiff that the Product was authentic,  
15 understood as being the same jersey that NHL players wear during hockey games,  
16 from the fight strap to the dimples to the stitching and the fit.

17        137. Defendant directly marketed the Product to Plaintiff through its  
18 advertisements and marketing, through various forms of media, on the packaging, in  
19 print circulars, direct mail, product descriptions, and targeted digital advertising.

138. Defendant knew the product attributes that potential customers like  
20 Plaintiff were seeking, such as pro-stock, on-ice game-ready hockey jerseys with  
21 features like a fight strap, real pressed dimples, stitched logos, names, and numbers,  
22 and developed its marketing and labeling to directly meet their needs and desires.

24        139. Defendant's representations about the Product were conveyed in writing  
25 and promised it would be defect-free, and Plaintiff understood this meant it was  
26 authentic, understood as being the same jersey that NHL players wear during hockey  
27 games, from the fight strap to the dimples to the stitching and the fit.

140. Defendant affirmed and promised that the Product was authentic,

understood as being the same jersey that NHL players wear during hockey games, from the fight strap to the dimples to the stitching and the fit.

3       141. Defendant described the Product so Plaintiff and consumers believed it  
4 was authentic, understood as being the same jersey that NHL players wear during  
5 hockey games, from the fight strap to the dimples to the stitching and the fit, which  
6 became part of the basis of the bargain that it would conform to its affirmations and  
7 promises.

8       142. Plaintiff recently became aware of Defendant's breach of the Product's  
9 warranties.

10        143. Plaintiff provided or provides notice to Defendant, its agents,  
11 representatives, retailers, and their employees that it breached the Product's  
12 warranties.

13        144. Defendant received notice and should have been aware of these issues  
14 due to complaints by third parties, including regulators, competitors, and consumers,  
15 to its main offices, and by consumers through online forums.

16           145. The Product did not conform to its affirmations of fact and promises due  
17 to Defendant's actions.

## **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiff, on behalf of himself and members of the proposed  
20 Class, pray for judgment and relief as follows:

21 A. Certification of the Class, designating Plaintiff as representative of the  
22 Class and Plaintiff's Counsel as counsel for the Class;  
23 B. A declaration that Defendant has committed the violations alleged;  
24 C. For injunctive relief the Court deems appropriate;  
25 D. For restitution and disgorgement pursuant to, without limitation, the  
26 California Business & Professions Code §§ 17200, *et seq.* and Cal Civ.  
27 Code § 1780, except for monetary damages under the CLRA;

- 1 E. Compensatory damages, the amount of which is to be determined at trial,
- 2 except for monetary damages under the CLRA;
- 3 F. For punitive damages;
- 4 G. For attorneys' fees;
- 5 H. For costs of suit incurred;
- 6 I. For pre- and post-judgment interest; and
- 7 J. For such further relief as this Court may deem just and proper.

8 **DEMAND FOR JURY TRIAL**

9 Plaintiff demands a jury trial on all causes of action so triable.  
10

11 Dated: October 18, 2023

12 Respectfully submitted,

13 */s/ Manfred P. Muecke*

14 Manfred P. Muecke (SBN 222893)

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27 \**Pro Hac Vice* Forthcoming